

Fair Political Practices Commission

Memorandum

To: Chairman Getman, Commissioners Downey, Knox, and Swanson

From: Scott A. Burritt, Executive Fellow
Hyla Wagner, Senior Commission Counsel
Luisa Menchaca, General Counsel

Subject: Proposition 34 Regulations: Pre-Notice Discussion of Proposed Regulations
18544 and 18545, COLA for Campaign Contributions and Voluntary Expenditure
Limits

Date: May 23, 2002

Regulation 18544: COLA Formula

Summary

Proposition 34 created contribution limits and voluntary expenditure ceilings for state candidates (Government Code Sections 85301, 85302, 85303 and 85400).¹ Section 83124, added by Proposition 34, provides the FPPC with a statutory mandate to adjust the contribution limits and voluntary expenditure ceilings on January 1, 2003 to reflect changes in the Consumer Price Index (CPI). Section 83124 states:

“The commission shall adjust the contribution limitations and voluntary expenditure limitations provisions in Sections 85301, 85302, 85303, and 85400 in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index. Those adjustments shall be rounded to the nearest one hundred dollars (\$100) for limitations on contributions and one thousand dollars (\$1,000) for limitations on expenditures.”

This proposed regulation creates the formula for the adjustment of the contribution and expenditure limits.

Background - Current COLA Formula in Regulation 18940.2 (Gift Limits)

The formula currently used to calculate the gift limit adjustment in section 89503 is found in regulation 18940.2 and is useful in developing a regulation creating a formula for the adjustment of the contribution and expenditure limits.

¹ All references are to the Government Code.

The gift limit adjustment is based upon the U.S. Bureau of Labor Statistics California Consumer Price Index for All Urban Consumers obtained for the calendar year immediately preceding the year in which the adjustment is to take effect. The Consumer Price Index is released at the end of each month covering economic activity for the prior month. Since the gift limit has been in effect, the gift limit formula has not presented any problems.

CPI data is available on a national basis and figures for California are released by the California Department of Finance for "urban consumers", for Los Angeles County and surrounding counties and for San Francisco County and surrounding counties. California Consumer Price Index for All Urban Consumers is the most inclusive statewide figure available and the index most commonly used by other state agencies. Section 82001 states that the Commission shall use COLAs on the same basis as those routinely used by other state agencies. Staff therefore utilized the California Consumer Price Index for All Urban Consumers in calculating the contribution and expenditure limit COLAs.

Staff also believes the proposed formula for contribution and expenditure limits should mirror the formula found in the gift limit regulation 18940.2². The formula is as follows:

$$\frac{X \times Y}{177.3} = Z$$

Where X = Amount of Contribution Limit/Expenditure Ceiling;

Y = California Consumer Price Index for All Urban Consumers for year end 2002;

177.3 = California Consumer Price Index for All Urban Consumers for year end 2000;

and

Z = Adjusted Contribution Limit/Expenditure Ceiling.

Effective Dates of Adjusted Limits

Pursuant to language in subdivision (a)(1) of the regulation (lines 9 and 10), the adjusted contribution limit amounts will apply to all state elections taking place during the two-year period from January 1, 2003 to December 31, 2004. For example, if the new adjusted limit were \$3,200, it would apply to a special Assembly election occurring in February of 2003, even if fundraising started during the last months of 2002. Similarly, the current \$3,000 limit will apply for Assembly candidates who raise funds after January 1, 2003 to pay down debts from the 2002 election.

The adjusted contribution limits will be applied to a particular election in order to avoid significant confusion that might be caused if contribution limits changed mid-way through a

² The COLA example in regulation 18940.2 reads as follows:

$$\frac{\$250 \times 145.6}{135} = \$270$$

campaign. This method also is consistent with the Commission's prior treatment of Proposition 34 as a "per-election" contribution limit scheme.

Time Frame for Implementation

Regulation 18544, the COLA formula, is being presented for pre-notice discussion in June and adoption in August. In addition, proposed regulation 18545, which will state the amount of the adjusted contribution and expenditure limits in effect for each office, is submitted for pre-notice discussion. Regulation 18545 will be presented for adoption in November of 2002, with the actual amounts to be in effect from January 1, 2003 to December 31, 2004.

Because the actual CPI data for 2002 will not be released until February 2003, and because the adjustment will be in effect in January 2003, staff recommends that the COLA adjustment be based on the Department of Finance estimate of the Consumer Price Index available in September.

Staff Recommendation: Staff recommends the Commission approve proposed regulations 18544 and 18545 for public notice. Regulation 18544 will be presented for adoption in August and regulation 18545 in November of 2002.

Attachments